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THE LAW AND RECENT CRITICISM.¹

PROFESSOR TOY'S new work, *Judaism and Christianity*, gives an admirable conspectus of the results of the modern critical school on the genesis of Christianity. The author takes various important doctrines of Christianity, traces them back to their origin in Israelitism, pursues their course through their various phases in Judaism, until they reach their final development in the teaching of Jesus and his disciples, which, in the author's judgment, is the consummation of that which the prophets and their successors had to give to the world. Laying so much stress as Professor Toy does on the saying, "By their fruits shall ye know them," he ought also, perhaps, to have told us what, in the course of time, has become of these several doctrines. For when, for instance, with regard to the doctrine of original sin, he remarks that "in certain systems of Christian theology the human race is involved in the condemnation of the first man" (p. 185, *n.* 1); or that, in the New Testament, "the demand for a mediating power between God and humanity is pushed to the farthest point which thought can occupy consistently with the maintenance of the absoluteness of the one Supreme Deity" (p. 121), he is rather evading a difficulty than answering it. Such elaboration would, however, have been outside the scope of Professor Toy's book, which claims only to be a sketch of the progress of thought from the Old Testament to the New. For his own solution of the indicated difficulty, Toy, to judge from his liberal standpoint, would probably refer us to Dr. Hatch's Hibbert lectures; the issue of such an appeal must, I imagine, remain for long doubtful and disputed.

¹ *Judaism and Christianity, a sketch of the progress of thought from Old Testament to New Testament*, by C. H. Toy, Professor in Harvard University. London, 1890.

A delightful characteristic of Toy's book is its transparent clearness and sobriety, which will make it interesting reading, even to those who are acquainted with the writer's authorities in their original sources. Almost entirely new, as well as most suggestive, is the justice which Toy does to the law in recognising it as a factor for good in the history of religion. In this point Toy is not only up to his date, but beyond it. It is true that even the Pharisees have made some advance in the estimation of the liberal school. They are no longer condemned *en masse* as so many hypocrites. It is even admitted that there were a few honest men among them, such as Rabban Gamliel, the teacher of Paul, or R. Akiba, the patriot of Bethar. We are now too polite to be personal. But with regard to the law, on the other hand, there is at present a markedly opposite tendency. The general idea seems to be that, as the doctrine of the resurrection of Christ must be loosely interpreted in a spiritual sense, it must logically have been preceded by a universal spiritual death, and the germs of the disease which brought this death about are to be sought for in the law. Hence the strained efforts to discover in the law the source of all religious evil,—cant, hypocrisy, formalism, externalism, transcendentalism, and as many "isms" more of bad reputation.

It was probably with a view to this current representation of the law that Toy, when speaking of the Levitical legislation, and of its fixing "men's minds on ceremonial details which, in some cases, it put into the same category and on the same level with moral duties," asks the question: "Would there not thence result a dimming of the moral sense and a confusion of moral distinctions? The ethical attitude of a man who could regard a failure in the routine of sacrifice as not less blameworthy than an act of theft cannot be called a lofty one" (p. 186). The answer which he gives is more favourable than such a leading question would induce us to expect. He tells us that, "in point of fact, the result was different (*ibid.*). The Levitical law is not to be looked on as a mere extension and organisation of the ritual. . . . Its ritual was, in great part, the organised expression of the consciousness of sin" (p. 226). Of the law

in general Toy says that it had "larger consequences than its mere details would suggest," for it "cultivated the moral sense of the people into results above its mechanical prescriptions," and "it developed the sense of sin, as Paul points out (Gal. iii. 19), and therewith a freer feeling, which brought the soul into more immediate contact with God" (p. 227) ; whilst in another place he reminds us "that much of the law is moral, and that no one could fail to feel a spiritual significance beneath its letter" (p. 245), and he even admits that "the great legal schools which grew up in the second century, if we may judge by the sayings of the teachers which have come down to us, did not fail to discriminate between the outward and the inward, the ceremonial and the moral" (p. 186).

These and similar passages will suffice to show that Toy's estimate of the law is a very different one from that of Smend and his school. However, it must not be supposed that he is not on the look-out for the germs of the disease. He must find these germs somewhere, or else the progress, which his book is intended to illustrate, would be difficult to detect. And thus he repeats the old accusations, though not without modification.

Professor Toy's objections may, perhaps, be summed up in the passage in which he represents the Jewish law as "an attempt to define all the beliefs and acts of life" (p. 239), or as "the embodiment of devotion to a fixed rule of belief and conduct" (p. 237). Toy does not entirely condemn this system, and even speaks of it as a "lofty attempt" (p. 239) ; but, on the whole, he considers that it must have resulted in bad theology, as well as in doubtful conduct. Without following Professor Toy over the whole area of his investigations, which would require a volume for itself, I will only take the opportunity of making a few general remarks upon the nature and character of this legal system, which seems to hold the key to the spiritual history of Judaism.

First, as to its theology, Toy's description of the law as an attempt to define all the *beliefs* of life—an assertion which is also made by Schürer—is not wholly accurate. For such an attempt was never made by Judaism. The few dogmas

which Judaism possesses, such as the Existence of God, Providence, Punishment and Reward—without which no revealed religion is conceivable—can hardly be called a creed in the modern sense of the term, which implies something external and strange to man's own knowledge, and only acceptable through the weight of authority. To the Jew of the Christian era, these simpler dogmas were so self-evident that it would have cost him the greatest effort *not* to believe them. Hence the fact that, whilst there have come down to us so many controverted points between the Sadducees and Pharisees with regard to certain juristic and ritual questions, we know of only one of an essentially dogmatic character, viz., the dispute concerning the Resurrection.

It is thus difficult to imagine to what Professor Toy can be alluding when he speaks of the "interest they (the Jews) threw into the discussion and determination of minutiae of faith" (p. 241). Discussions upon *minutiæ* of faith are only to be read in the works of the later schoolmen (as Saadiah, Maimonides and their followers), in which such subtle problems as *creatio ex nihilo*, the origin of evil, predestination, free will and similar subjects are examined; but this period is very distant from that with which Toy is concerned. The older schools and the so-called houses of Shammai and Hillel, most of whose members were the contemporaries of the Apostles, show very little predilection for such *minutiæ*. Their discussions and differences of opinion about ritual matters are very numerous, scattered as they are over the whole of the ancient rabbinic literature, but I can only remember two of a metaphysical character, or touching upon the *minutiæ* of faith. The one dealing with the efficacy of certain sacrifices discusses whether it only extends to the suppression of the pending punishment for sins, or also includes their purification and washing away (see *Pessikta*, ed. Buber, 61b, and parallels); the other considers the question whether it would not have been better for man not to have been created (*Erubin*, 13b). But this latter controversy, which is said to have lasted for two years and a-half, by no means led to any big metaphysical or theological system,

but only to the practical advice that, as we have been created, we ought to be watchful over our conduct. It is, indeed, a noteworthy feature of Judaism that theological speculations have never resulted in the formulation of any imposing or universal doctrine, but usually in divers ceremonial practices. To give one illustration : according to Prof. Toy (p. 210) the conclusion which the author of 1 Tim. ii. 11-14 draws from the fact that woman was the immediate agent of the introduction of sin was the subordination of her sex. The Rabbis also noticed the same fact, and in their less abstract language speak of woman as having brought death and grief into the world, but the conclusion which they drew was that since woman had extinguished the "light of the world," she ought to atone for it by lighting the candles for the Sabbath (Jerushalmi, *Sabbath*, 5b). Nor is Toy quite correct when he maintains that the conception of the Memra as Creator and Lord, etc., and as "representative of the immediate divine activity," did not keep its hold on Jewish thought, having been discarded in the later literature (p. 104). For the Shechinah of the Talmud, the *Metatron* of the Geonic-mystical literature, the Active Intelligence of the philosophical schools, as well as the Ten Sephiroth (Emanations) of the Cabbalists, all owe their existence to the same theosophic scruples and subtleties in which the Logos of Philo and the Memra of the Targumim originated. Thus, they always kept—though under various forms—their hold on the Jewish mind. Judaism was always broad enough to accommodate itself to these formulæ, which for the one may mean the most holy mysteries, and for the other empty and meaningless catchwords. The objection—in fact, the active opposition—of the synagogue began when these possible or impossible explanations of the universe tended to transgress the bounds of abstract speculation, and passing over into real concrete beings, to be worshipped as such. An instance from comparatively modern times might be found in one of the vagaries of the followers of the Pseudo-Messiah, Sabbathai Zebi. For many generations the controversy had raged among the Cabbalists, whether the first of the above-mentioned Ten Emanations (called by some *Adam Kadmon*, by

others, *Kether*) is to be considered as a part of the deity or as something separate, and so to speak, having a reality in itself. The danger of establishing a Being near the Deity having an existence of its own and invested with divine attributes could not have escaped the thoughtful, and there are indeed some indications to this effect. The Synagogue as such, however, remained during the whole controversy strictly neutral, and allowed these theosophists to fight in the air as much as they liked. But the moment that the sect of Sabbathai Zebi identified the incarnate Adam Kadmon with their leader, and worshipped him as a sort of God-Messiah, the Synagogue at once took up a hostile attitude against those who separated God from his world, and declaring Sabbathai Zebi and his followers to be apostates, excluded them from Judaism for ever.

Nor can it be proved that legalism or nomism has ever tended to suppress the spiritual side of religion, either in respect of consciousness of sin, or of individual love and devotion. With an equal logic quite the opposite might be argued. Professor Toy tells us himself that it is no "accident that along with this more definite expression of ethical-religious law we find the first traces of a more spiritual conception of righteousness in the 'new heart' of Jeremiah and Ezekiel" (p. 235), whilst in another passage we read that "a turning point is marked by the Deuteronomist Jeremiah and Ezekiel, who announce the principles of individual responsibility and inwardness of obedience" (p. 184). Now, two things are certain; first, that Ezekiel urges the necessity of the new heart as well as of individual responsibility more keenly than any of his predecessors; secondly, that in Ezekiel the legalistic tendency is more evident than in Deuteronomy and Jeremiah. The logical conclusion would thus be that the higher ideals of religion are not only not inconsistent with legalism, but are the very outcome of it, and the so-called Priestly Code, by the very fact of its markedly legalistic tendency, should be considered as a step in the right direction. The latter assertion sounds like a paradox, but it will seem less so when the prevailing characteristic of this portion of the Pentateuch, as given even by Kuenen, who is by

no means a champion of the Law, is borne in mind. "The centre of gravity," according to the great Dutch critic, "lies for the priestly author elsewhere than for the prophet; it lies in man's attitude not towards his fellow-men, but towards God; not in his social, but in his personal life" (Hibbert Lectures, p. 161.) It is here that we seem to strike the keynote of the *Weltanschauung* of the Priestly Legislation. In it man is more than a social being. He has also an individual life of his own, his joys and sorrows, his historical claims, his traditions of the past, and his hopes for the future—and all these have to be brought under the influence of religion, and to become sanctified through their relation to God. Hence, the work of the Priestly narrator and legislator opens with a cosmogony of his own, in which we find the grand theological idea of man being created in the Divine image; hence, too, his religious conception of the history of the nation and his claimed control over all the details of human life, which became with him so many opportunities for the worship of God. To him, God is not a mere figurehead; he not only reigns, but governs. Everywhere, in the temple, in the judge's seat, in the family, in the farm, and in the market-place, his presence is felt in exacting the laws bearing his *imprimatur*, "I am the Lord thy God." By this diffusion of religion over the whole domain of human life—not confining it to the social institutions which are represented only by a few personages, such as the king, the princes, the priests, the judges or elders—it became the common good of the whole people, and the feeling of personal responsibility for this good became much deeper than before. Thus it came to pass that whilst, during the first temple, the apostasy of kings and aristocracy involved the entire people, so that the words "And he (the king) did evil in the sight of the Lord" embrace the whole nation, during the second temple it was no longer of much consequence which side the political leaders took. And both during the Hellenistic persecutions, as well as afterwards in the struggles of some Maccabæan kings with the Pharisees, the bulk of the people showed that they considered religion as their own personal affair, not to be regulated by the con-

science of either priest or prince. It is true that this success may largely be ascribed to such contemporary religious factors as the Synagogue with its minimum of form, to the Scribes with their activity as teachers, and to the Psalmists with their divine enthusiasm, but the very circumstance that these factors arose and flourished under the influence of the Priestly Code would suffice to prove that its tendency was not so sacerdotal as some writers would have us believe. Jewish tradition indeed attributes the composition of the daily public prayers, as well as of others for private worship, to the very men whom biblical criticism holds responsible for the introduction of the Priestly Code. Now this fact may perhaps be disputed, but there is little doubt that the age in which these prayers were composed was one of flourishing legalism. Nor is there any proof that the synagogues and their ritual were in opposition to the temple. From the few documents belonging to this period, it is clear that there was no opposition to the legalistic spirit by which the Priestly Code was actuated. This would prove that legalism meant something more than tithes and sacrifices for the benefit of the priests.

Nor is it true that the legal tendency aimed at narrowing the mind of the nation, turning all its thoughts into the one direction of the law. Apart from the fact that the Torah contained other elements besides its legalism, the prophets were not forgotten, but were read and interpreted from a very early age. It was under the predominance of the law that the Wisdom literature was composed, which is by no means narrow or one-sided, but is even supposed by some to contain many foreign elements. In the book of Job, the great problems of man's existence are treated with a depth and grandeur never equalled before or since. This book alone ought partly to compensate the modern school for the disappearance of prophecy, which is usually brought as a charge against the Law. Then, too, the Psalms, placed by the same school in the post-exilic period, are nothing but another aspect of prophecy, with this difference, perhaps, that in the Prophets God speaks to man, while in the Psalms it is man who establishes the same communion by

speaking to God. There is no reason why the critical school, with its broad conception of inspiration, and insisting, as it does, that prophecy does *not* mean prediction, should so strongly emphasise this difference. If "it is no longer as in the days of Amos, when the Lord Yahveh did nothing without revealing his counsel to his servants the prophets," there is in the days of the Psalmists nothing in man's heart, no element in his longings and meditations and aspirations, which was not revealed to God. Nay, it would seem that at times the Psalmist hardly ever desires the revelation of God's secrets. Let future events be what they may, he is content, for he is with God. After all his trials, he exclaims, "And yet I am continually with thee ; thou hast taken hold of my right hand. According to thy purpose wilt thou lead me, and afterwards receive me with glory. Whom have I (to care for) in heaven ? and possessing thee, I have pleasure in nothing upon earth. Though my flesh and my heart should have wasted away, God would for ever be the rock of my heart and my portion" (Ps. lxxiii. 23—26). How an age producing a literature containing passages like these—of which Wellhausen in his *Abriss* (p. 95) justly remarks, that we are not worthy even to repeat them—can be considered by the modern school as wanting in intimate relation to God and inferior to that of the prophets is indeed a puzzle.

Now a few words as to the actual life under the Law. Here, again, there is a fresh puzzle. On the one side, we hear the opinions of so many learned Professors, proclaiming *ex cathedrâ*, that the Law was a most terrible burden, and the life under it the most unbearable slavery, deadening body and soul. On the other side we have the testimony of a literature extending over about twenty-five centuries, and including all sorts and conditions of men, scholars, poets, mystics, lawyers, casuists, schoolmen, tradesmen, workmen, women, simpletons, who all, from the author of the 119th Psalm to the last pre-Mendelssohnian writer—with a small exception which does not even deserve the name of a vanishing minority—give unanimous evidence in favour of this Law, and of the bliss and happiness of living and dying under it,

—and this, the testimony of people who were actually living under the Law, not merely theorising upon it, and who experienced it in all its difficulties and inconveniences. The Sabbath will give a fair example. This day is described by almost every modern writer in the most gloomy colours, and long lists are given of the minute observances connected with it, easily to be transgressed, which would necessarily make of the Sabbath, instead of a day of rest, a day of sorrow and anxiety, almost worse than the Scotch Sunday as depicted by continental writers. But, on the other hand, the Sabbath is celebrated by the very people who did observe it, in hundreds of hymns, which would fill volumes, as a day of rest and joy, of pleasure and delight, a day in which man enjoys some presentiment of the pure bliss and happiness which are stored up for the righteous in the world to come, and to which such tender names were applied as the “Queen Sabbath,” the “Bride Sabbath,” and the “Holy, dear, beloved Sabbath.” Somebody, either the learned Professors, or the millions of the Jewish people, must be under an illusion. Which it is I leave to the reader to decide.

It is also an illusion to speak of the burden which a scrupulous care to observe 613 commandments must have laid upon the Jew. Even a superficial analysis will discover that in the time of Christ many of these commandments were already obsolete (as for instance those relating to the tabernacle and to the conquest of Palestine), while others concerned only certain classes, as the priests, the judges, the soldiers, the Nazirites, or the representatives of the community, or even only one or two individuals among the whole population, as the King and the High-Priest. Others again, provided for contingencies which could occur only to a few, as for instance the laws concerning divorce or levirate marriages, whilst many—such as those concerning idolatry, and incest, and the sacrifice of children to Moloch—could scarcely have been considered as a practical prohibition by the pre-Christian Jew; just as little as we can speak of Englishmen under the burden of a law preventing them from burning widows or marrying their grandmothers, though such acts would certainly be considered as crimes.

Thus it will be found by a careful enumeration that barely a hundred laws remain which really concerned the life of the bulk of the people. If we remember that even these include such laws as belief in the unity of God, the necessity of loving and fearing him, and of sanctifying his name, of loving one's neighbour and the stranger, of providing for the poor, exhorting the sinner, honouring one's parents and many more of a similar character, it will hardly be said that the ceremonial side of the people's religion was not well balanced by a fair amount of spiritual and social elements. Besides, it would seem that the line between the ceremonial and the spiritual is too often only arbitrarily drawn. With many commandments it is rather a matter of opinion whether they should be relegated to the one category or the other.

Thus, the wearing of Tephilin or phylacteries has, on the one hand, been continually condemned as a meaningless superstition, and a pretext for formalism and hypocrisy. But, on the other hand, Maimonides, who can in no way be suspected of superstition or mysticism, described their importance in the following words: "Great is the holiness of the Tephilin; for as long as they are on the arm and head of man he is humble and God-fearing, and feels no attraction for frivolity or idle things, nor has he any evil thoughts, but will turn his heart to the words of truth and righteousness." The view which R. Jochanan, a Palestinian teacher of the third century, took of the fulfilment of the Law, will probably be found more rational than that of many a rationalist of to-day. Upon the basis of the last verse in Hosea, "The ways of the Lord are right, and the just shall walk in them, but the transgressors shall stumble therein," he explains that while one man, for instance, eats his paschal lamb for the sake of the *Mizvah* (that is, to do God's will who commanded it), and thereby commits an act of righteousness, another thinks only of satisfying his appetite by the lamb, so that his eating it (by the very fact that he professes at the same time to perform a religious rite) becomes a stumbling-block for him (*Nazir* 23 *b.*). Thus all the laws by virtue of their divine authority—and in this there was in

the first century no difference of opinion between Jews and Christians—have their spiritual side, and to neglect them implies, at least from the individual's own point of view, a moral offence.

The legalistic attitude may be summarily described as an attempt to live in accordance with the will of God. But, nevertheless, on the whole this life never degenerated into religious formalism. Apart from the fact that during the second temple there grew up laws and even beliefs, which show a decided tendency towards progress and development, there were also ceremonies which were popular with the people, and others which were neglected. Men were not, therefore, the mere soulless slaves of the Law ; personal sympathies and dislikes also played a due part in their religion. Nor were all the laws actually put upon the same level. With a happy inconsistency men always spoke of heavier and slighter sins, and by the latter—excepting, perhaps, the profanation of the Sabbath—they mostly understood ceremonial transgressions. The statement made by Professor Toy (p. 243), on the authority of James (ii. 10), that “the principle was established that he who offended in one point was guilty of all,” is hardly correct ; for the passage seems rather to be laying down a principle, or arguing that logically the law ought to be looked upon as a whole, than stating a fact. The fact was that people did not consider the whole law as of equal importance, but made a difference between laws and laws, and even spoke of certain commandments, such as those of charity and kindness, as outweighing all the rest of the Torah. It was in conformity with this spirit that in times of great persecution the leaders of the people had no compunction in reducing the whole Law to the three prohibitions of idolatry, of incest, and of bloodshed. Only these three were considered of sufficient importance that men should rather become martyrs than transgress them.

These, then, are some of the illusions and misrepresentations which exist with regard to the Law. There are many others, of which the complete exposure would require a book by itself. Meanwhile, in the absence of such a book to

balance and correct the innumerable volumes upon the other side, Professor Toy has done the best he could with existing materials, and produced a meritorious work deserving of wide recognition and approval.

S. SCHECHTER
